IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 615 of 2005

Between:

1 T.Sudhaker, S/o. T.Deendayal,
R/o.10933 Caminito Alvarez, San Diego, CA-92126,
USA. Rep.by his younger brother and G.P.A.Holder, T.Raghunath, S/o T.Deendayal,

R/o.flat No.203, Sarada Apartments, 3-4-9,Barkatpura,Hyd.
2 T.Raghunath, S/o. T.Deendayal,
R/o.flat No.203, Sarada Apartments, 3-4-9,Barkatpura,Hyd.

..... PETITIONER(S)

AND

The Union of India, rep.by its Secretary, Ministry of Commerce, New Delhi.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other writ order or direction, declaring that the patents (Amendment) ordinance, 2004, insofar as it pertains to product patenting of life saving medicines as illegal and void and / or pass such other order or orders.

Counsel for the Petitioners:PARTY-IN-PERSON

Counsel for the Respondent : MR.B. Narayana Reddy (Addl. SC FOR CG)

The Court made the following Oral Order : (per Sri Devinder Gupta, CJ)

We cannot permit this type of petition as “Public Interest Litigation”, which was filed challenging the validity of the Patents (Amendment) Ordinance, 2004. In no part of the petition, it is shown that which part of the Ordinance is being questioned by the petitioners. When the petition was taken up by us, counsel for the petitioner has pointed out that he is only confining his submissions in so far as Section 36 of the Patents (Amendment) Ordinance, 2004, as it deleted Section 48 of the Patents Act, 1970. Even such submission is misconceived inasmuch as Section 36 of the Ordinance has deleted the proviso of Section 48 of the Patents Act, 1970 and not Section 48. Even what is the effect of deleting the said proviso is not shown in the writ petition. Petitioners, in fact, have expressed their apprehension that by bringing the Ordinance into force, prices of life saving drugs are likely to be increased. It is only a hypothetical writ petition based on pure imagination, which cannot be permitted to be entertained to question the legality and validity of the Ordinance without the affected person being party to the said writ petition.

The writ petition is accordingly dismissed. No costs.

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DEVINDER GUPTA, CJ

Date: 31st January, 2005

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M. NARAYANA REDDY,J

Pnb

To

1. The Secretary, Union of India, Ministry of Commerce, New Delhi.
2. Two C.D copies.

3. The Officer concerned, Public Interest Litigation Cell, High Court Buildings, Hyderabad.

4. The Secretary, A.P.State Legal Advisory Board, High Court Buildings, Hyderabad.

5. The Secretary to Government of A.P., Home (Police) Department, Secretariat, Hyderabad.